

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 890

FINAL READING

Introduced by Pahls, 31; Pirsch, 4.

Read first time January 11, 2010

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to banking and finance; to amend sections
2 8-142, 8-143, 8-183.04, 8-908, 8-1502, and 21-1725.01,
3 Reissue Revised Statutes of Nebraska, sections 8-115.01,
4 8-157, 8-234, and 8-374, Revised Statutes Cumulative
5 Supplement, 2008, and sections 8-1,140, 8-355, and
6 21-17,115, Revised Statutes Supplement, 2009; to change
7 provisions relating to the delivery of certain notices;
8 to change and provide powers and duties for the
9 Department of Banking and Finance and Director of
10 Banking and Finance; to change capital requirements for
11 converted savings associations; to change and provide
12 criminal penalties and civil liability relating to
13 violations of loan limit provisions; to revise powers of

1 state-chartered banks, building and loan associations,
2 and credit unions; to change provisions relating to bank
3 holding company management; to change notice provisions
4 relating to acquisitions; to harmonize provisions; to
5 provide operative dates; to repeal the original sections;
6 and to declare an emergency.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 8-115.01, Revised Statutes Cumulative
2 Supplement, 2008, is amended to read:

3 8-115.01 When an application required by section 8-120 is
4 made by a corporation, the following procedures shall be followed:

5 (1) Except as provided for in subdivision (2) of this
6 section, when application is made for a new bank charter, a public
7 hearing shall be held on each application. Notice of the filing
8 of the application shall be published by the department for three
9 weeks in a legal newspaper published in or of general circulation
10 in the county where the applicant proposes to operate the bank. The
11 date for hearing the application shall be not less than thirty days
12 after the last publication of notice of hearing and not more than
13 ninety days after the application has been accepted for filing by
14 the director as substantially complete unless the applicant agrees
15 to a later date. Notice of the filing of the application shall be
16 sent by the department to all financial institutions located in the
17 county where the applicant proposes to operate;

18 (2) When application is made for a new bank charter
19 and the director determines, in his or her discretion, that the
20 conditions of subdivision (3) of this section are met, then the
21 public hearing requirement of subdivision (1) of this section shall
22 only be required if, (a) after publishing a notice of the proposed
23 application in a newspaper of general circulation in the county
24 where the main office of the applicant is to be located and (b)
25 after giving notice to all financial institutions located within

1 such county, the director receives a substantive objection to the
2 application within fifteen days after the first day of publication;

3 (3) The director shall consider the following in each
4 application before the public hearing requirement of subdivision
5 (1) of this section may be waived:

6 (a) Whether the experience, character, and general
7 fitness of the applicant and of the applicant's officers and
8 directors ~~is~~ are such as to warrant belief that the applicant will
9 operate the business honestly, fairly, and efficiently;

10 (b) Whether the length of time that the applicant or a
11 majority of the applicant's officers, directors, and shareholders
12 have been involved in the business of banking in this state has
13 been for a minimum of five consecutive years; and

14 (c) Whether the condition of financial institutions
15 currently owned by the applicant, the applicant's holding company,
16 if any, or the applicant's officers, directors, or shareholders is
17 such as to indicate that a hearing on the current application would
18 not be necessary;

19 (4) Except as provided in subdivision (6) of this
20 section, when application is made for transfer of a bank charter
21 and move of the main office of a bank to any location other
22 than within the corporate limits of the city or village of its
23 original charter or, if such bank charter is not located in a city
24 or village, then for transfer outside the county in which it is
25 located, the director shall hold a hearing on the matter if he

1 or she determines, in his or her discretion, that the condition
2 of the applicant warrants a hearing. If the director determines
3 that the condition of the applicant does not warrant a hearing,
4 the director shall (a) publish a notice of the filing of the
5 application in a newspaper of general circulation in the county
6 where the proposed main office and charter of the applicant would
7 be located and (b) give notice of such application to all financial
8 institutions located within the county where the proposed main
9 office and charter would be located and to such other interested
10 parties as the director may determine. If the director receives
11 any substantive objection to the proposed relocation within fifteen
12 days after the first day of publication, he or she shall hold
13 a hearing on the application. Notice of a hearing held pursuant
14 to this subdivision shall be published for two consecutive weeks
15 in a newspaper of general circulation in the county where the
16 main office would be located. The date for hearing the application
17 shall be not less than thirty days after the last publication
18 of notice of hearing and not more than ninety days after the
19 application has been accepted for filing by the director as
20 substantially complete unless the applicant agrees to a later date.
21 When the persons making application for transfer of a main office
22 and charter are officers or directors of the bank, there is a
23 rebuttable presumption that such persons are parties of integrity
24 and responsibility;

25 (5) Except as provided in subdivision (6) of this

1 section, when application is made for a move of any bank's
2 main office within the city, village, or county, if not chartered
3 within a city or village, of its original charter, the director
4 shall publish notice of the proposed move in a newspaper of general
5 circulation in the county where the main office of the applicant
6 is located and shall give notice of such intended move to all
7 financial institutions located within the county where such bank is
8 located. If the director receives a substantive objection to such
9 move within fifteen days after publishing such notice, he or she
10 shall publish an additional notice and hold a hearing as provided
11 in subdivision (1) of this section;

12 (6) With the approval of the director, a bank may move
13 its main office and charter to the location of a branch of the
14 bank without public notice or hearing as long as (a) the condition
15 of the bank, in the discretion of the director, does not warrant
16 a hearing and (b) the branch (i) is located in Nebraska, (ii) has
17 been in operation for at least one year as a branch of the bank
18 or was acquired by the bank pursuant to section 8-1506 or 8-1516,
19 and (iii) is simultaneously relocated to the original main office
20 location;

21 (7) The director shall send any notice to financial
22 institutions required by this section by first-class mail, postage
23 prepaid, or electronic mail. Electronic mail may be used if the
24 financial institution agrees in advance to receive such notices by
25 electronic mail. A financial institution may designate one office

1 for receipt of any such notice if it has more than one office
2 located within the county where such notice is to be sent or a main
3 office in a county other than the county where such notice is to
4 be sent;

5 (8) The expense of any publication and mailing required
6 by this section shall be paid by the applicant; and

7 (9) Notwithstanding any provision of this section, the
8 director shall take immediate action on any charter application
9 or applications concerned without the benefit of a hearing in the
10 case of an emergency so declared by the Governor, the Secretary of
11 State, and the director.

12 Sec. 2. Section 8-142, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 8-142 Any officer, ~~or~~ employee, director, or agent of
15 any bank who ~~shall violate~~ knowingly violates or knowingly permit
16 permits a violation of the ~~provisions~~ of section 8-141, shall be
17 guilty of a Class IV misdemeanor. ~~is guilty of:~~

18 (1) A Class IV felony when the violation, either
19 separately or as part of one scheme or course of conduct, results
20 in the insolvency of the bank;

21 (2) A Class I misdemeanor when the violation, either
22 separately or as part of one scheme or course of conduct, (a)
23 results in a monetary loss to the bank of over twenty thousand
24 dollars or (b) exceeds the authorized limit under section 8-141 by
25 forty thousand dollars or more;

1 (3) A Class II misdemeanor when the violation, either
2 separately or as part of one scheme or course of conduct, (a)
3 results in a monetary loss to the bank of ten thousand dollars or
4 more, but not more than twenty thousand dollars, or (b) exceeds the
5 authorized limit under section 8-141 by twenty thousand dollars or
6 more, but less than forty thousand dollars; or

7 (4) A Class III misdemeanor when the violation, either
8 separately or as part of one scheme or course of conduct, (a)
9 results in no monetary loss to the bank or a monetary loss to
10 the bank of less than ten thousand dollars, or (b) exceeds the
11 authorized limit under section 8-141 by ten thousand dollars or
12 more, but less than twenty thousand dollars.

13 Sec. 3. Section 8-143, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 8-143 If the directors of any bank shall knowingly
16 violate or knowingly permit any of the officers, employees, or
17 agents, ~~or servants~~ of the bank to violate ~~any of the provisions of~~
18 section 8-141, all rights, privileges, and franchises of the bank
19 shall be thereby forfeited. Before such charter shall be declared
20 forfeited, such violation shall be determined and adjudged by a
21 court of competent jurisdiction in a suit brought for that purpose
22 by the ~~director~~ Director of Banking and Finance in his or her own
23 name. In case of such violation, every director who participated
24 in or knowingly assented to the same shall be held liable in his
25 or her personal and individual capacity for all damages which the

1 bank, its shareholders, or any other person shall have sustained in
2 consequence of such violation.

3 Sec. 4. Section 8-157, Revised Statutes Cumulative
4 Supplement, 2008, is amended to read:

5 8-157 (1) Except as otherwise provided in this section
6 and section 8-2104, the general business of every bank shall be
7 transacted at the place of business specified in its charter.

8 (2) (a) (i) Except as provided in subdivision (2) (a) (ii) of
9 this section, with the approval of the director, any bank located
10 in this state may establish and maintain in this state an unlimited
11 number of branches at which all banking transactions allowed by law
12 may be made.

13 (ii) Any bank that owns or controls more than twenty-two
14 percent of the total deposits in Nebraska, as described in
15 subdivision (2) (c) of section 8-910 and computed in accordance
16 with subsection (3) of section 8-910, or any bank that is a
17 subsidiary of a bank holding company that owns or controls more
18 than twenty-two percent of the total deposits in Nebraska, as
19 described in subdivision (2) (c) of section 8-910 and computed
20 in accordance with subsection (3) of section 8-910, shall not
21 establish and maintain an unlimited number of branches as provided
22 in subdivision (2) (a) (i) of this section. With the approval of the
23 director, a bank as described in this subdivision may establish and
24 maintain in the county in which such bank is located an unlimited
25 number of branches at which all banking transactions allowed by law

1 may be made, except that if such bank is located in a Class I or
2 Class III county, such bank may establish and maintain in Class I
3 and Class III counties an unlimited number of branches at which all
4 banking transactions allowed by law may be made.

5 (iii) Any bank which establishes and maintains branches
6 pursuant to subdivision (2)(a)(i) of this section and which
7 subsequently becomes a bank as described in subdivision (2)(a)(ii)
8 of this section shall not be subject to the limitations as to
9 location of branches contained in subdivision (2)(a)(ii) of this
10 section with regard to any such established branch and shall
11 continue to be entitled to maintain any such established branch
12 as if such bank had not become a bank as described in subdivision
13 (2)(a)(ii) of this section.

14 (b) With the approval of the director, any bank or any
15 branch may establish and maintain a mobile branch at which all
16 banking transactions allowed by law may be made. Such mobile branch
17 may consist of one or more vehicles which may transact business
18 only within the county in which such bank or such branch is located
19 and within counties in this state which adjoin such county.

20 (c) For purposes of this subsection:

21 (i) Class I county means a county in this state with a
22 population of three hundred thousand or more as determined by the
23 most recent federal decennial census;

24 (ii) Class II county means a county in this state with
25 a population of at least two hundred thousand and less than three

1 hundred thousand as determined by the most recent federal decennial
2 census;

3 (iii) Class III county means a county in this state with
4 a population of at least one hundred thousand and less than two
5 hundred thousand as determined by the most recent federal decennial
6 census; and

7 (iv) Class IV county means a county in this state with a
8 population of less than one hundred thousand as determined by the
9 most recent federal decennial census.

10 (3) With the approval of the director, a bank may
11 establish and maintain branches acquired pursuant to section 8-1506
12 or 8-1516. All banking transactions allowed by law may be made at
13 such branches.

14 (4) With the approval of the director, a bank may acquire
15 the assets and assume the deposits of a branch of another financial
16 institution in Nebraska if the acquired branch is converted to a
17 branch of the acquiring bank. All banking transactions allowed by
18 law may be made at a branch acquired pursuant to this subsection.

19 (5) With the approval of the director, a bank may
20 establish a branch pursuant to subdivision (6) of section 8-115.01.
21 All banking transactions allowed by law may be made at such branch.

22 (6) The name given to any branch established and
23 maintained pursuant to this section shall not be substantially
24 similar to the name of any existing bank or branch which is
25 unaffiliated with the newly created branch and is located in the

1 same city, village, or county. The name of such newly created
2 branch shall be approved by the director.

3 (7) A bank which has a main chartered office or an
4 approved branch located in the State of Nebraska may, through any
5 of its executive officers, including executive officers licensed
6 as such pursuant to section 8-139, or designated agents, conduct
7 a loan closing at a location other than the place of business
8 specified in the bank's charter or any branch thereof.

9 (8) A bank which has a main chartered office or approved
10 branch located in the State of Nebraska may, upon notification
11 to the department, establish savings account programs at any
12 elementary or secondary school, whether public or private, that
13 has students who reside in the same city or village as the
14 main chartered office or branch of the bank, or, if the main
15 office of the bank is located in an unincorporated area of a
16 county, at any school that has students who reside in the same
17 unincorporated area. The savings account programs shall be limited
18 to the establishment of individual student accounts and the receipt
19 of deposits for such accounts.

20 (9) Upon receiving an application for a branch to be
21 established pursuant to subdivision (2)(a) of this section, to
22 establish a mobile branch pursuant to subdivision (2)(b) of this
23 section, to acquire a branch of another financial institution
24 pursuant to subsection (4) of this section, or to move the location
25 of an established branch other than a move made pursuant to

1 subdivision (6) of section 8-115.01, the director shall hold a
2 public hearing on the matter if he or she determines, in his or
3 her discretion, that the condition of the applicant bank warrants
4 a hearing. If the director determines that the condition of the
5 bank does not warrant a hearing, the director shall (a) publish a
6 notice of the filing of the application in a newspaper of general
7 circulation in the county where the proposed branch or mobile
8 branch would be located, the expense of which shall be paid by
9 the applicant bank, and (b) give notice of such application to
10 all financial institutions located within the county where the
11 proposed branch or mobile branch would be located and to such other
12 interested parties as the director may determine. The director
13 shall send the notice to financial institutions by first-class
14 mail, postage prepaid, or electronic mail. Electronic mail may be
15 used if the financial institution agrees in advance to receive such
16 notices by electronic mail. A financial institution may designate
17 one office for receipt of any such notice if it has more than one
18 office located within the county where such notice is to be sent
19 or a main office in a county other than the county where such
20 notice is to be sent. If the director receives any substantive
21 objection to the proposed branch or mobile branch within fifteen
22 days after publication of such notice, he or she shall hold a
23 hearing on the application. Notice of a hearing held pursuant
24 to this subsection shall be published for two consecutive weeks
25 in a newspaper of general circulation in the county where the

1 proposed branch or mobile branch would be located. The date for
2 hearing the application shall not be more than ninety days after
3 the filing of the application and not less than thirty days after
4 the last publication of notice of hearing. The expense of any
5 publication and mailing required by this section shall be paid by
6 the applicant.

7 Sec. 5. Section 8-183.04, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 8-183.04 (1) Notwithstanding any other provision of the
10 Nebraska Banking Act or any other Nebraska law, a state or federal
11 savings association which was formed and in operation as a mutual
12 savings association as of July 15, 1998, may elect to retain its
13 mutual form of corporate organization upon conversion to a state
14 bank.

15 (2) All references to shareholders or stockholders for
16 state banks shall be deemed to be references to members for such a
17 converted savings association.

18 (3) The amount and type of capital required for such
19 a converted savings association shall be as required for federal
20 mutual savings associations in 12 C.F.R. part 567, as such part
21 existed on January 1, 2010, except that if at any time the
22 department determines that the capital of such a converted savings
23 association is impaired, the department may require the members to
24 make up the capital impairment.

25 (4) The director shall have the power to adopt and

1 promulgate rules and regulations governing such converted mutual
2 savings associations. In adopting and promulgating such rules and
3 regulations, the director may consider the provisions of sections
4 8-301 to 8-384 governing savings associations in mutual form of
5 corporate organization.

6 Sec. 6. Section 8-1,140, Revised Statutes Supplement,
7 2009, is amended to read:

8 8-1,140 Notwithstanding any of the other provisions of
9 the Nebraska Banking Act or any other Nebraska statute, any bank
10 incorporated under the laws of this state and organized under
11 the provisions of the act, or under the laws of this state as
12 they existed prior to May 9, 1933, shall directly, or indirectly
13 through a subsidiary or subsidiaries, have all the rights, powers,
14 privileges, benefits, and immunities which may be exercised as
15 of ~~April 9, 2009,~~ January 1, 2010, by a federally chartered
16 bank doing business in Nebraska, including the exercise of all
17 powers and activities that are permitted for a financial subsidiary
18 of a federally chartered bank. Such rights, powers, privileges,
19 benefits, and immunities shall not relieve such bank from payment
20 of state taxes assessed under any applicable laws of this state.

21 Sec. 7. Section 8-234, Revised Statutes Cumulative
22 Supplement, 2008, is amended to read:

23 8-234 (1) With the approval of the Director of Banking
24 and Finance, a corporation organized to do business as a trust
25 company under the Nebraska Trust Company Act may establish and

1 maintain branch trust offices within this state and in any other
2 state pursuant to section 8-2303.

3 (2) A corporation organized to do business as a trust
4 company under the Nebraska Trust Company Act, in order to establish
5 a branch trust office in Nebraska pursuant to subsection (1) of
6 this section, shall apply to the Director of Banking and Finance on
7 a form prescribed by the director. Upon receipt of a substantially
8 complete application, the director shall hold a public hearing on
9 the matter if he or she determines, in his or her discretion, that
10 the condition of the corporation organized to do business as a
11 trust company warrants a hearing. If the director determines that
12 the condition of the corporation organized to do business as a
13 trust company does not warrant a hearing, the director shall (a)
14 publish a notice of the filing of the application in a newspaper of
15 general circulation in the county where the proposed branch trust
16 office would be located and (b) give notice of such application
17 for a branch trust office to all financial institutions within the
18 county where the proposed branch trust office would be located and
19 to such other interested parties as the director may determine.
20 The director shall send the notice to financial institutions by
21 first-class mail, postage prepaid, or electronic mail. Electronic
22 mail may be used if the financial institution agrees in advance to
23 receive such notices by electronic mail. A financial institution
24 may designate one office for receipt of any such notice if it
25 has more than one office located within the county where such

1 notice is to be sent or a main office in a county other than the
2 county where such notice is to be sent. If the director receives
3 a substantive objection to the proposed branch trust office within
4 fifteen days after publication of such notice, he or she shall hold
5 a hearing on the application. Notice of a hearing held pursuant
6 to this subsection shall be published for two consecutive weeks
7 in a newspaper of general circulation in the county where the
8 proposed branch trust office would be located. The expense of any
9 publication and mailing required by this section shall be paid by
10 the applicant. The date for hearing the application shall not be
11 more than ninety days after the filing of the application and not
12 less than thirty-one days after the last publication of notice of
13 hearing. The costs of the hearing shall be assessed in accordance
14 with the rules and regulations of the Department of Banking and
15 Finance.

16 (3) The director shall approve the application for a
17 branch trust office if he or she finds that (a) the establishment
18 of the branch trust office would not adversely affect the financial
19 condition of the corporation organized to do business as a trust
20 company, (b) there is a need in the community for the branch trust
21 office, and (c) establishment of the branch trust office would be
22 in the public interest.

23 (4) With the approval of the director, a state-chartered
24 bank authorized to conduct a trust business pursuant to sections
25 8-159 to 8-162 may establish and maintain branch trust offices

1 within this state and in any other state pursuant to section
2 8-2303. The procedure for the establishment of any branch trust
3 office under this subsection shall be the same as provided in
4 subsections (2) and (3) of this section. The activities at the
5 branch trust office shall be limited to the activities permitted by
6 the Nebraska Trust Company Act, and the general business of banking
7 shall not be conducted at the branch trust office. Nothing in this
8 subsection is intended to prohibit the establishment of a branch
9 pursuant to section 8-157 at which trust business may be conducted.

10 (5) A branch trust office of a corporation organized to
11 do business as a trust company or of a state-chartered bank shall
12 not be closed without the prior written approval of the director.

13 Sec. 8. Section 8-355, Revised Statutes Supplement, 2009,
14 is amended to read:

15 8-355 Notwithstanding any of the provisions of Chapter 8,
16 article 3, or any other Nebraska statute, except as provided in
17 section 8-345.02, any association incorporated under the laws of
18 the State of Nebraska and organized under the provisions of such
19 article shall have all the rights, powers, privileges, benefits,
20 and immunities which may be exercised as of ~~April 9, 2009,~~
21 January 1, 2010, by a federal savings and loan association doing
22 business in Nebraska. Such rights, powers, privileges, benefits,
23 and immunities shall not relieve such association from payment of
24 state taxes assessed under any applicable laws of this state.

25 Sec. 9. Section 8-374, Revised Statutes Cumulative

1 Supplement, 2008, is amended to read:

2 8-374 (1) Prior to issuing a certificate of approval,
3 the department, upon receiving an application for a stock savings
4 and loan association, shall (a) publish notice of filing of the
5 application for a period of three weeks in a legal newspaper
6 published in or of general circulation in the county where the
7 applicant proposes to operate the savings and loan association
8 and (b) give notice of such application for a stock savings and
9 loan association to all financial institutions within the county
10 where the proposed main office of the stock savings and loan would
11 be located and to such other interested parties as the director
12 may determine. The director shall send the notice to financial
13 institutions by first-class mail, postage prepaid, or electronic
14 mail. Electronic mail may be used if the financial institution
15 agrees in advance to receive such notices by electronic mail. A
16 financial institution may designate one office for receipt of any
17 such notice if it has more than one office located within the
18 county where such notice is to be sent or a main office in a county
19 other than the county where such notice is to be sent.

20 (2) A public hearing shall be held on each application.
21 The date for hearing the application shall be not more than ninety
22 days after filing the application and not less than thirty days
23 after the last publication of notice. Such hearing shall be held to
24 determine:

25 ~~(1)~~ (a) Whether the articles of incorporation and bylaws

1 conform to the requirements of sections 8-356 to 8-384 and contain
2 a just and equitable plan for the management of the association's
3 business;

4 ~~(2)~~ (b) Whether the persons organizing such association
5 are of good character and responsibility;

6 ~~(3)~~ (c) Whether in the department's judgment a need
7 exists for such an institution in the community to be served;

8 ~~(4)~~ (d) Whether there is a reasonable probability of its
9 usefulness and success; and

10 ~~(5)~~ (e) Whether the same can be established without
11 undue injury to properly conducted existing local savings and loan
12 associations, whether mutual or capital stock in formation.

13 (3) The expense of any publication and mailing required
14 by this section shall be paid by the applicant.

15 Sec. 10. Section 8-908, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 8-908 Sections 8-908 to 8-917 and section 11 of this
18 act shall be known and may be cited as the Nebraska Bank Holding
19 Company Act of 1995.

20 Sec. 11. If the department, upon investigation,
21 determines that any officer or director of a bank holding company
22 which owns or controls a state-chartered bank is conducting
23 the business of the bank holding company or the business of
24 its subsidiary state-chartered bank or banks in an unsafe or
25 unauthorized manner or is endangering the interest of the bank

1 holding company or the interest of its subsidiary state-chartered
2 bank or banks, the department shall have authority, after notice
3 and opportunity for hearing, to do any or all of the following: (1)
4 Remove such officer or director of the bank holding company from
5 acting as an officer or director of the bank holding company; and
6 (2) impose fines and order any other necessary corrective action
7 against such officer or director pursuant to sections 8-1,134
8 to 8-1,139. The department may adopt and promulgate rules and
9 regulations to carry out this section.

10 Sec. 12. Section 8-1502, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 8-1502 (1) Except as provided in subsection (2) of this
13 section, no person acting personally or as agent shall acquire
14 control of any state-chartered bank or trust company without first
15 giving sixty days' notice to the Department of Banking and Finance
16 on forms provided by the department of such proposed acquisition.

17 The Director of Banking and Finance, upon receipt of
18 such notice, shall act upon it within thirty days, and, unless
19 he or she disapproves the proposed acquisition within that period
20 of time, it may become effective on the sixty-first day after
21 receipt without his or her approval, except that the director
22 may extend the thirty-day period an additional thirty days if
23 in his or her judgment any material information submitted is
24 substantially inaccurate or the acquiring party has not furnished
25 all the information required by sections 8-1501 to 8-1505 or by the

1 director.

2 An acquisition may be made prior to the expiration of the
3 disapproval period if the director issues written notice of his or
4 her intent not to disapprove the action.

5 Within three days after his or her decision to disapprove
6 any proposed acquisition, the director shall notify the acquiring
7 party in writing of the disapproval. The notice shall provide a
8 statement of the basis for the disapproval.

9 (2) The notice requirements of subsection (1) of this
10 section shall not apply when:

11 (a) Shares of a state-chartered bank or trust company
12 are acquired by a person in the regular course of securing or
13 collecting a debt previously contracted in good faith or through
14 inheritance or a bona fide gift if notice of such acquisition
15 is given to the department, on forms provided by the department,
16 within ten days after the acquisition; ~~or~~

17 (b) Shares of a state-chartered bank or trust company are
18 transferred from an individual or individuals to a trust formed
19 by the individual or individuals for estate-planning purposes if
20 (i) there is no change in the proportion of shares held by the
21 trust for such individual or individuals compared to the ownership
22 of such individual or individuals prior to the formation of the
23 trust, (ii) the individual or individuals control the trust, and
24 (iii) notice of the proposed transfer is given to the department,
25 on forms provided by the department, at least thirty days prior to

1 the proposed transfer and the department does not disapprove the
2 transfer for the reason that the transfer is an attempt to subvert
3 the requirements of sections 8-1501 to 8-1505; or

4 ~~(b)~~ (c) The director, the Governor, and the Secretary
5 of State jointly determine that an emergency exists which requires
6 expeditious action or that the department must act immediately to
7 prevent probable failure of the institution to be acquired.

8 Sec. 13. Section 21-1725.01, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 21-1725.01 (1) Upon receiving an application to establish
11 a new credit union, a public hearing shall be held on each
12 application. Notice of the filing of the application shall be
13 published by the department for three weeks in a legal newspaper
14 published in or of general circulation in the county where the
15 applicant proposes to operate the credit union. The date for
16 hearing the application shall be not less than thirty days after
17 the last publication of notice of hearing and not more than ninety
18 days after filing the application unless the applicant agrees to
19 a later date. Notice of the filing of the application shall be
20 sent by the department to all financial institutions located in the
21 county where the applicant proposes to operate.

22 (2) When application is made to establish a branch of a
23 credit union, the director shall hold a hearing on the matter if
24 he or she determines, in his or her discretion, that the condition
25 of the applicant credit union warrants a hearing. If the director

1 determines that the condition of the credit union does not warrant
2 a hearing, the director shall (a) publish a notice of the filing of
3 the application in a newspaper of general circulation in the county
4 where the proposed branch would be located and (b) give notice of
5 such application to all financial institutions located within the
6 county where the proposed credit union branch would be located and
7 to such other interested parties as the director may determine.
8 If the director receives any substantive objection to the proposed
9 credit union branch within fifteen days after publication of such
10 notice, he or she shall hold a hearing on the application. Notice
11 of a hearing held pursuant to this subsection shall be published
12 for two consecutive weeks in a newspaper of general circulation in
13 the county where the proposed branch would be located. The date for
14 hearing the application shall be not less than thirty days after
15 the last publication of notice of hearing and not more than ninety
16 days after the filing of the application unless the applicant
17 agrees to a later date.

18 (3) The director may, in his or her discretion, hold
19 a public hearing on amendments to a credit union's articles of
20 association or bylaws which are brought before the department.

21 (4) The director shall send any notice to financial
22 institutions required by this section by ~~certified mail~~ first-class
23 mail, postage prepaid, or electronic mail. Electronic mail may be
24 used if the financial institution agrees in advance to receive such
25 notices by electronic mail. A financial institution may designate

1 one office for receipt of any such notice if it has more than one
2 office located within the county where such notice is to be sent or
3 a main office in a county other than the county where such notice
4 is to be sent.

5 (5) The expense of any publication and certified mailing
6 required by this section shall be paid by the applicant.

7 Sec. 14. Section 21-17,115, Revised Statutes Supplement,
8 2009, is amended to read:

9 21-17,115 Notwithstanding any of the other provisions of
10 the Credit Union Act or any other Nebraska statute, any credit
11 union incorporated under the laws of the State of Nebraska and
12 organized under the provisions of the act shall have all the
13 rights, powers, privileges, benefits, and immunities which may be
14 exercised as of ~~April 9, 2009,~~ January 1, 2010, by a federal credit
15 union doing business in Nebraska on the condition that such rights,
16 powers, privileges, benefits, and immunities shall not relieve
17 such credit union from payment of state taxes assessed under any
18 applicable laws of this state.

19 Sec. 15. Sections 1, 2, 3, 4, 5, 7, 9, 10, 11, 12, 13,
20 and 16 of this act become operative three calendar months after the
21 adjournment of this legislative session. The other sections of this
22 act become operative on their effective date.

23 Sec. 16. Original sections 8-142, 8-143, 8-183.04, 8-908,
24 8-1502, and 21-1725.01, Reissue Revised Statutes of Nebraska,
25 and sections 8-115.01, 8-157, 8-234, and 8-374, Revised Statutes

1 Cumulative Supplement, 2008, are repealed.

2 Sec. 17. Original sections 8-1,140, 8-355, and 21-17,115,
3 Revised Statutes Supplement, 2009, are repealed.

4 Sec. 18. Since an emergency exists, this act takes effect
5 when passed and approved according to law.